

## Federal Acquisition Regulation

## 19.1008

(b) *Targeted industry categories.* Each participating agency, in consultation with the Small Business Administration, designates its own targeted industry categories for enhanced small business participation.

[55 FR 52792, Dec. 21, 1990, as amended at 59 FR 67036, Dec. 28, 1994; 64 FR 16276, Mar. 27, 2000; 65 FR 46056, July 26, 2000; 66 FR 65370, Dec. 18, 2001; 68 FR 43874, July 24, 2003; 70 FR 11742, Mar. 9, 2005]

### 19.1006 Exclusions.

This subpart does not apply to—

(a) Orders placed against Federal Supply Schedules;

(b) Contract awards to educational and nonprofit organizations; or

(c) Contract awards to governmental entities.

[65 FR 16276, Mar. 27, 2000]

### 19.1007 Procedures.

(a) *General.* (1) All solicitations must include the applicable NAICS code and size standards.

(2) The face of each award made pursuant to the program must contain a statement that the award is being issued pursuant to the Small Business Competitiveness Demonstration Program.

(b) *Solicitations greater than the ESB reserve amount.* (1) Solicitations for acquisitions in any of the designated industry groups that have an anticipated dollar value greater than the emerging small business reserve amount must not be considered for small business set-asides under subpart 19.5. However, agencies may reinstate the use of small business set-asides as necessary to meet their assigned goals, but only within organizational units that failed to meet the small business participation goal.

(2) Acquisitions in the designated industry groups must continue to be considered for placement under the 8(a) Program (*see* Subpart 19.8), the HUBZone Program (*see* Subpart 19.13), and the Service-Disabled Veteran-Owned Small Business Procurement Program (*see* Subpart 19.14).

(c) *Solicitations equal to or less than the ESB reserve amount.* (1) Solicitations for acquisitions in the designated industry groups with an estimated value equal to or less than the emerging

small business reserve amount must be set aside for ESBs, provided that the contracting officer determines that there is a reasonable expectation of obtaining offers from two or more responsible ESBs that will be competitive in terms of market price, quality, and delivery. If no such reasonable expectation exists, the contracting officer must—

(i) For acquisitions \$25,000 or less, proceed in accordance with Subpart 19.5, 19.8, 19.13, or 19.14; or

(ii) For acquisitions greater than \$25,000 and less than or equal to the ESB reserve amount, proceed in accordance with paragraph (b) of this section.

(2) If the contracting officer proceeds with the ESB set-aside and receives a quotation from only one ESB at a reasonable price, the contracting officer must make the award. If there is no quote from an ESB, or the quote is not at a reasonable price, then the contracting officer must cancel the ESB set-aside and proceed in accordance with paragraph (c)(1)(i) or (ii) of this section.

(d) *Expanding small business participation in targeted industry categories.* Each participating agency must develop and implement a time-phased strategy with incremental goals, including reporting on goal attainment. To the extent practicable, provisions that encourage and promote teaming and joint ventures must be considered. These provisions should permit small business firms to effectively compete for contracts that individual small businesses would be ineligible to compete for because of lack of production capacity or capability.

[65 FR 16276, Mar. 27, 2000, as amended at 65 FR 46057, July 26, 2000; 69 FR 25278, May 5, 2004; 70 FR 11742, Mar. 9, 2005]

### 19.1008 Solicitation provisions.

(a) Insert in full text the provision at 52.219-19, Small Business Concern Representation for the Small Business Competitiveness Demonstration Program, in all solicitations in the designated industry groups.

(b) Insert in full text the provision at 52.219-20, Notice of Emerging Small Business Set-Aside, in all solicitations

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for emerging small businesses in accordance with 19.1007(c).

(c) Insert in full text the provision at 52.219-21, Small Business Size Representation for Targeted Industry Categories under the Small Business Competitiveness Demonstration Program, in all solicitations issued in each of the targeted industry categories under the Small Business Competitiveness Demonstration Program that are expected to result in a contract award in excess of \$25,000.

[55 FR 52793, Dec. 21, 1990. Redesignated and amended at 65 FR 16276, Mar. 27, 2000; 70 FR 11742, Mar. 9, 2005]

### Subpart 19.11—Price Evaluation Adjustment for Small Disadvantaged Business Concerns

SOURCE: 63 FR 35724, June 30, 1998, unless otherwise noted.

#### 19.1101 General.

A price evaluation adjustment for small disadvantaged business concerns shall be applied as determined by the Department of Commerce (see 19.201(b)). Joint ventures may qualify provided the requirements set forth in 13 CFR 124.1002(f) are met.

#### 19.1102 Applicability.

(a) This subpart applies to the Department of Defense, National Aeronautics and Space Administration, and the U.S. Coast Guard. Civilian agencies do not have the statutory authority (originally authorized in the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355, Sec. 7102)) for use of the Small Disadvantaged Business (SDB) price evaluation adjustment.

(b) Use the price evaluation adjustment in competitive acquisitions in the authorized NAICS Industry Subsector.

(c) Do not use the price evaluation adjustment in acquisitions—

(1) That are less than or equal to the simplified acquisition threshold;

(2) That are awarded pursuant to the 8(a) Program;

(3) That are set aside for small business concerns;

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(4) That are set aside for HUBZone small business concerns;

(5) That are set-aside for service-disabled veteran-owned small business concerns;

(6) Where price is not a selection factor so that a price evaluation adjustment would not be considered (*e.g.*, architect/engineer acquisitions); or

(7) Where all fair and reasonable offers are accepted (*e.g.*, the award of multiple award schedule contracts).

[64 FR 36223, July 2, 1999, as amended at 65 FR 46057, July 26, 2000; 69 FR 25278, May 5, 2004; 70 FR 57463, Sept. 30, 2005]

#### 19.1103 Procedures.

(a) Give offers from small disadvantaged business concerns a price evaluation adjustment by adding the factor determined by the Department of Commerce to all offers, except—

(1) Offers from small disadvantaged business concerns that have not waived the evaluation adjustment; or, if a price evaluation adjustment for small disadvantaged business concerns is authorized on a regional basis, offers from small disadvantaged business concerns, whose address is in such a region, that have not waived the evaluation adjustment; or

(2) An otherwise successful offer from a historically black college or university or minority institution.

(b) Apply the factor to a line item or a group of line items on which award may be made. Add other evaluation factors such as transportation costs or rent-free use of Government facilities to the offers before applying the price evaluation adjustment.

(c) Do not evaluate offers using the price evaluation adjustment when it would cause award, as a result of this adjustment, to be made at a price that exceeds fair market price by more than the factor as determined by the Department of Commerce (see 19.202-6(a)).

[63 FR 35724, June 30, 1998, as amended at 63 FR 52427, Sept. 30, 1998; 64 FR 36223, July 2, 1999; 64 FR 72419, Dec. 27, 1999; 69 FR 1053, Jan. 7, 2004; 70 FR 33661, June 8, 2005; 70 FR 57463, Sept. 30, 2005]

#### 19.1104 Contract clause.

Insert the clause at 52.219-23, Notice of Price Evaluation Adjustment for